

IC 8-9.5-7

Chapter 7. Automated Transit Districts

IC 8-9.5-7-1

Creation by legislative body

Sec. 1. (a) A:

- (1) consolidated city; or
- (2) city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000);

may create, by an ordinance adopted by its legislative body, an automated transit district. The ordinance creating an automated transit district must specify the territory to be included initially in the district.

(b) An automated transit district may also be created by the procedures provided in sections 2 and 3 of this chapter.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.84-1988, SEC.7; P.L.12-1992, SEC.60; P.L.170-2002, SEC.62.

IC 8-9.5-7-1.1

Dissolution by ordinance or resolution; obligations of dissolved districts

Sec. 1.1. (a) An automated transit district may be dissolved by an ordinance adopted by the legislative body on a date that is at least three (3) years later than the date the ordinance was adopted.

(b) An automated transit district may dissolve itself by resolution on a date that is at least two (2) years later than the date of adoption of the resolution creating the district.

(c) A dissolution of a district under this section requires the city to assume the obligations incurred by the district.

As added by P.L.343-1989(ss), SEC.5.

IC 8-9.5-7-2

Association of landowners

Sec. 2. (a) Any number of persons, not less than fifteen (15), who are the owners of fifteen (15) separate parcels of real estate in the same city may associate themselves together by written articles of association signed and acknowledged by each person, specifying:

- (1) the name of the association;
- (2) the purposes of the association, which shall be limited to the accomplishment of automated transit objectives authorized under this chapter;
- (3) the names and addresses of the initial members;
- (4) the principal office of the association and the name of the agent for purpose of communications and service of process;
- (5) the term of existence, which may be perpetual;
- (6) the number of directors, which may not be less than three (3), nor more than eleven (11);
- (7) the amount of membership fee, if any, and annual dues, if any;

(8) the area affected by any proposed automated transit system falling within the objects of the association; and

(9) such other provisions as the initial members may deem desirable, not inconsistent with the provisions of this chapter.

(b) A copy of the articles of association, signed and acknowledged by all of the initial members, shall be filed with the board of public works or board of transportation of the city in which the area affected is located, and another copy shall be recorded in the office of the recorder of the county within which such area is located.

(c) Such association shall be a not-for-profit body corporate and by its name shall have power to contract, hold, convey and transfer property, sue and be sued.

(d) Within ninety (90) days after the filing and recording of such articles of association, a meeting of all owners of real estate in the area described in the articles of association shall be held for the purpose of electing directors of the association. Notice of such meeting shall be mailed, first class postage prepaid, not less than twenty (20) days prior to the meeting to all owners of real estate in the area described in the articles of association. Such notice shall be sufficient if it sets forth the time and place of the meeting, the purpose of the meeting, and a general description of the nature and object of the association, together with the amount of the membership fee, if any, and the annual dues, if any. The notice shall also state that any owner of real estate may become a member and be eligible to vote in such meeting, either in person or by a duly authorized agent or attorney, upon the signing of a counterpart of the articles of association at any time prior to the commencement of the meeting and upon payment of the membership fee, if any, and the dues for the first year, if any. It shall be sufficient if the notice is addressed, and mailed, to all owners of real estate as their addresses appear upon the tax duplicates in the records of the county auditor.

(e) All directors elected shall be owners of real estate in the area affected and members of the association, and shall serve until the next annual meeting and until their successors are elected and qualified. The directors shall approve bylaws which may be amended from time to time and which may provide for officers of the association to be elected annually by the directors, and such other provisions as may be desirable for the conduct of the affairs of the association.

(f) The articles of association may be amended from time to time upon recommendations of the directors, and the approval of two-thirds (2/3) of all members of the association at a meeting called for the purpose. Any amended articles shall be signed and acknowledged by a majority of the directors. A copy of all amendments shall be filed with the board of public works or board of transportation and recorded in the office of the county recorder.

(g) At all times during regular business hours a counterpart of the articles of association, with all amendments, if any, shall be available at the office of the agent of the association for signature by any owner who may desire to become a member by signature of such

counterpart and the payment of the membership fee, if any, and the annual dues, if any.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-3

Establishment petition; notice; resolution

Sec. 3. (a) An association, or if an association has not been formed under section 2 of this chapter owners of twenty-five percent (25%) of the parcels of real estate in any proposed automated transit district, may file a petition with the board of public works or board of transportation. A petition of an association shall be signed by a majority of its directors. A petition shall be sufficient if it sets forth:

- (1) the boundaries of the proposed automated transit district which shall include all property which petitioners believe will be specially benefited or damaged by the proposed automated transit system;
- (2) the location and a general description of the proposed automated transit system;
- (3) the estimated cost of the proposed automated transit system; and
- (4) as a part of the petition, or as an exhibit thereto, the names and addresses of all owners within the boundaries of the proposed district, as the same appear upon the tax duplicates in the records of the auditor of the county.

(b) The board of public works or board of transportation, upon the filing of such petition, shall fix a date for a hearing on the establishment of the proposed district. The association or petitioners, as the case may be, shall cause a notice to be mailed, at least twenty-one (21) days prior to the date fixed for hearing, by United States mail, first class postage prepaid, to all owners of real estate within the proposed district. It shall be sufficient if the notices to the owners are addressed as the names and addresses appear upon the tax duplicates in the records of the county auditor. Also, the association or petitioners shall cause a notice of the hearing and the date, place and hour thereof, to be published in accordance with IC 5-3-1.

(c) The notice to be published and mailed shall also contain a general description of the contents of the petition, specifically setting forth the boundaries of the proposed district, and shall state that all of the property in the proposed district will be assessed benefits or damages under this chapter for the proposed automated transit system, and that at the hearing all owners of real estate within the proposed district, or their representatives, may be heard upon the question of the establishment of the district. Proof of service shall be made by affidavit of the person, or persons, causing such service to be made.

(d) On the date fixed for hearing the board of public works or board of transportation shall hear all owners in the proposed district, who appear and request to be heard, upon the question of the sufficiency of the petition and notice, whether the proposed automated transit system is of public utility and benefit, whether all

of the probable benefits of the proposed improvement will be equal to or exceed the estimated cost thereof, and whether the district contains all, or more or less than all, of the property specially benefited or damaged by the proposed system. After the hearing, which may be adjourned from time to time without further notice, the board of public works or board of transportation shall adopt a resolution containing the following determinations:

- (1) Whether the petition is sufficient.
- (2) Whether the required notice was given.
- (3) Whether the proposed automated transit system is of public utility and benefit.
- (4) Whether all of the probable benefits of the proposed system will equal or exceed the estimated cost thereof.
- (5) Whether the proposed automated transit district contains all, or more, or less than all, of the property specially benefited or damaged by the proposed system.

(e) If the board of public works or board of transportation resolves affirmatively on the first four (4) questions and determines that the proposed district contains all of the property specially benefited or damaged, then it shall establish the district with the boundaries described in such petition. If it resolves negatively on any of the first four (4) questions, it may allow amendments, the issuance of additional notice, and hold such further proceedings as it deems proper, or the petition may be dismissed without prejudice to the right to file a new petition.

(f) In the event the board of public works or board of transportation determines that property not specially benefited or damaged has been included within boundaries described in the petition, then it shall redefine the boundaries of the district and in its resolution include only that property within the petition which is specially benefited or damaged and shall establish the district with the boundaries as redefined.

(g) In the event the board of public works or board of transportation determines that either:

- (1) all of the property specially benefited or damaged has not been included within the boundaries described in the petition;
- or
- (2) all of the property specially benefited or damaged has not been included within the boundaries described in the petition and some property has been included which is not specially benefited or damaged;

then in either event it shall fix a date for a further hearing. Notice shall be given of the further hearing, describing the proposed revised boundaries as provided in this section, except that notice by mail shall be given only to the owners in any area proposed to be added to the district which was not included in the initial petition. At such further hearing all owners of real estate or their representatives within the proposed district boundaries, as revised shall be entitled to be heard, and the board of public works or board of transportation shall then adopt its resolution on establishment of the automated

transit district.

(h) Any resolution entered establishing an automated transit district shall also recite that all property within the district will be subject to assessment of special benefits and damages in the manner provided in this chapter.

(i) The resolution shall be deemed notice to all owners who have appeared, or who have been notified of the proceedings, as provided in this section, that their property will be subject to an assessment of special benefits and damages as provided in this chapter and that no further notice of such assessments, or of the hearing thereon, shall be required except the notice by publication provided for in this chapter.

(j) The resolution of the board of public works or board of transportation that establishes the automated transit district must be approved by the legislative body of the city. Thereafter, the resolution shall be final and conclusive and no attack may be made challenging the resolution on the establishment of the automated transit district, the validity of the petition, the sufficiency of notice, the existence of the automated transit district, the public utility and benefit of the proposed automated transit system, that the benefits equal or exceed the estimated cost, the boundaries of the district, or any other matters before the board of public works or board of transportation, unless an appeal is taken as provided in this section.

(k) A copy of the resolution establishing an automated transit district, certified by the clerk, shall be recorded in the miscellaneous records in the office of the recorder of the county in which the city is located.

(l) Any party aggrieved by a resolution made under the provisions of this section may appeal. Such appeal shall be taken as provided in IC 34-13-6. However, in the event that fifty-one percent (51%) of the owners of property located in such automated transit district remonstrate by petition to the board of public works or board of transportation, signatures on such petition shall be verified by the auditor of such county, and if found to be valid shall cause further actions on the establishment of an automated transit district to cease.
As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.1-1998, SEC.88.

IC 8-9.5-7-4

Commission; appointments; terms; salary; meetings; officers; quorum; record of proceedings; bylaws; powers

Sec. 4. (a) The district created under this chapter shall be governed by and under control of a commission having five (5) members, two (2) of whom shall be appointed by the executive of the city, two (2) of whom shall be appointed by the city legislative body, and one (1) of whom shall be the head of the city's department of public works or department of transportation. The term of office for a commission member for a district created by the legislative body is one (1) year after the member's appointment, except that the member shall serve until a successor has qualified for the office. Thereafter, the landowners, including corporate landowners, shall

elect five (5) members to succeed the original members of the commission under the bylaws of the commission for a term of one (1) year. Each member, otherwise qualified, is eligible for reappointment to successive terms.

(b) The commission members shall not receive a salary for serving but shall receive a per diem payment and expenses similar to those paid members of other special taxing district boards.

(c) The commission shall elect, at its first regular meeting and annually thereafter, one (1) of its members president, and another of its members vice president, who shall perform the duties of the president during the absence or disability of the president. Such commission shall have a suitable office where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at all reasonable times.

(d) The commission shall by rule provide for regular meetings to be held not less than at semimonthly intervals throughout the year. The commission shall keep its meetings open to the public.

(e) The commission shall convene in a special meeting when such a meeting is called. The chairman or a majority of the members of the commission may call a special meeting. The commission shall establish a procedure for calling special meetings.

(f) Three (3) members of the commission constitute a quorum for a meeting. The commission may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(g) The commission shall cause a written record of its proceedings to be kept which shall be available for public inspection in the office of the commission. The commission shall record in the record the aye and nay vote on the passage of each item of business.

(h) The commission shall adopt bylaws under which its meetings are to be held. The bylaws must provide that the vote of each member shall be in the same proportion that the assessed value of all of the members' land sites are to the assessed value of all the land sites within the district. The commission may suspend the bylaws by unanimous vote of the members of the commission who are present at the meeting. The commission shall not suspend the bylaws beyond the duration of the meeting at which the suspension of rules occurs.

(i) The commission may exercise the powers to supervise its internal affairs which are common to municipal legislative and administrative bodies.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.6.

IC 8-9.5-7-5

Ordinances; introduction of proposed draft; notice

Sec. 5. (a) A member of the commission may introduce a proposed draft of an ordinance at a meeting of the commission. A person who introduces a proposed draft of an ordinance shall provide at the time of introduction a written copy of the proposed draft. The commission shall assign to each proposed draft of an ordinance a

distinguishing number, and the date when introduced.

(b) Not more than seven (7) days after the introduction of a proposed draft of an ordinance nor less than seven (7) days before the final passage of a proposed draft of an ordinance, the commission shall publish a notice that the proposed ordinance is pending final action by the commission. The notice shall be published one (1) time in each of two (2) daily newspapers which have a general circulation in the jurisdiction of the commission.

(c) The commission shall include in the notice reference to the subject matter of the proposed ordinance and the time and place hearing will be held thereon and shall indicate that the proposed draft of an ordinance is available for public inspection at the office of the commission. The commission may include in one (1) notice a reference to the subject matter of each draft of an ordinance which is pending and for which notice has not been given.

(d) An ordinance shall not be invalid because the reference to the subject matter of the draft of an ordinance was inadequate if sufficient to advise the public of the general subject matter of the proposed ordinance.

(e) The commission shall not later than the date of notice of the introduction of a proposed ordinance place five (5) copies of the proposed draft on file in the office of the commission for public inspection.

(f) At a meeting for which notice has been given as required by this section, the commission may take final action on the proposed ordinance or may postpone final consideration thereof to a designated meeting in the future without giving additional notice.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-6

Adoption of ordinance; effective date

Sec. 6. (a) The commission may adopt a draft of an ordinance only at a meeting which is open to the public. Before adopting an ordinance, the commission shall give opportunity to any person present at the meeting to give testimony, evidence or argument for or against the proposed ordinance in person or by counsel, under such rules as to the number of persons who may be heard and time limits as may be adopted by the commission.

(b) When an ordinance is adopted, the commission shall at the same meeting designate the effective date of the ordinance. If the commission fails so to designate the effective date of the ordinance in the record of the proceedings of the commission, the ordinance shall be effective on the fourteenth day after its passage.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-7

Additional powers and duties

Sec. 7. In addition to the powers and duties conferred upon it elsewhere in this chapter, the commission shall have full power and authority to do all acts necessary or reasonably incident to carrying

out the purposes of this chapter including, but not in limitation thereof, the following:

- (1) To sue and be sued collectively in the name of the "Automated Transit District".
- (2) To adopt ordinances to protect all property owned, operated, or managed by the commission.
- (3) To incur indebtedness in the name of the district in accordance with the provisions of this chapter.
- (4) To adopt administrative procedures and regulations.
- (5) To acquire property, real, personal or mixed by deed, purchase, lease, condemnation or otherwise and dispose of the same for automated transit purposes, and to receive gifts, donations, bequests and public trusts and to agree to conditions and terms accompanying the same and bind the district to carry them out.
- (6) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.
- (7) To accept assistance from state or federal agencies for the purposes of this chapter.
- (8) To negotiate and execute contracts required to accomplish the purposes of this chapter.
- (9) To enter into agreements with any other agency of the state or any of its political subdivisions or any private company for the rendition of any services, the rental or use of any equipment or facilities or the joint purchase and use of any equipment or facilities which are deemed proper by the contracting parties for use in the operation, maintenance or construction of an automated transit system.
- (10) To purchase supplies, materials and equipment to carry out the duties and functions of the commission, in accordance with procedures adopted by the commission and in accordance with the general law of the state.
- (11) To employ such personnel as may be necessary for the proper carrying out of the duties, functions and powers of the commission.
- (12) To sell any surplus or unneeded property in accordance with such procedure as may be prescribed by the commission.
- (13) To adopt administrative regulations to carry out its powers and duties, governing the duties of its officers, employees and personnel and the internal management of the affairs of the commission.
- (14) To fix the salaries or compensation of the various officers and employees of such district except where a different provision is made by this chapter.
- (15) To carry out the purposes and objects of the district.
- (16) To acquire land, easements and rights-of-way, and to establish, construct, improve, equip, maintain, control, lease and regulate an automated transit system within the jurisdictional limits of the district.

(17) To acquire property within the jurisdiction of the district for the purpose of establishing parking facilities for the purpose of increasing the usefulness of the automated transit system and to charge a parking fee to be established by ordinance.

(18) To provide parking facilities and services related to the provision of automated transit.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.7.

IC 8-9.5-7-8

Actions by the commission; publication of regulations

Sec. 8. The commission may take any action which it deems proper to recover damages for the breach of any agreement, express or implied, relating to or growing out of the operation, control, leasing, management, or improvement of the property under its control, and for the penalties for the violation of any ordinances or of any of its regulations and for injury to the personal or real property under its control and to recover possession of any such property. All regulations which said commission shall at any time adopt under and in pursuance of the provisions of this chapter shall be published for at least ten (10) days in a newspaper of general circulation printed in such city.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-9

Eminent domain

Sec. 9. (a) The commission may exercise the power of eminent domain for the purpose of carrying out this chapter and to award damages to landowners for real estate and property rights appropriated and taken. If the commission cannot agree with the owners, lessees, or occupants of any real estate selected by the board for the purpose set forth in this chapter, the board may proceed to procure the condemnation of the property under IC 32-24.

(b) Relocation assistance under IC 8-23-17 shall be provided to any person displaced under this section.

(c) If the property over and across which the automated transit system must be constructed and operate is already in use or acquired for use for a public purpose, the public use or acquisition of the property shall not be a bar to the right of the commission to condemn the property for purposes of this chapter.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.18-1990, SEC.103; P.L.2-2002, SEC.43.

IC 8-9.5-7-10

Agreement with public transportation corporation

Sec. 10. In any district served by a public transportation corporation, created under IC 36-9-4, the commission may enter into an agreement with the corporation to operate and maintain the automated transmit system and to provide connecting service to, from, and between the areas served by the district and the

corporation for the purpose of providing improved public transportation facilities and service to the community.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-11

Treasurer; appointment; bond; term; powers and duties

Sec. 11. (a) The commission shall appoint a person to act as treasurer of the district; he shall give bond in such sum and with any condition prescribed by the commission and with surety to the approval of the commission. The treasurer shall be appointed to serve for a term of one (1) year unless sooner removed for cause. All money payable to the district shall be paid to the treasurer and he shall deposit the same under the provisions of the general laws of the state relating to the deposit of public funds by municipal corporations. He shall keep an accurate account of all appropriations made and all taxes levied by the district, of all money owing or due to the district and of all money received and disbursed. He shall preserve all vouchers for payments and disbursements made.

(b) The treasurer shall issue all warrants for the payment of money from the funds of the district, but no warrant shall be issued for the payment of any claim until such claim has been allowed in accordance with the procedure prescribed by the regulations of the commission. All warrants shall be countersigned by the president. Whenever the treasurer is called upon to issue any warrant, he shall have the power to require evidence that the amount claimed is justly due and in conformity with law and for that purpose may summon before him any officer, agent or employee of the district, or other person, and examine him on oath or affirmation relating thereto, which oath or affirmation the treasurer may administer.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-12

Report of accounts by treasurer

Sec. 12. The treasurer shall submit to the commission annually, and more often if required by the commission, a report of the accounts, exhibiting the revenues, receipts and disbursements and the sources from which the revenues and funds are derived and in what manner the same have been disbursed.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-13

Audit of records of account

Sec. 13. The treasurer shall annually, and more often if required by the commission, submit his records of account as treasurer of the district to such person or firm, being a certified public accountant or firm of certified public accountants, as designated or selected by the commission, for audit. Such person or firm shall prepare and submit a certified report of such records of accounts to the board exhibiting the revenues, receipts and disbursements and the sources from which the revenues and funds are derived and in what manner the same

have been disbursed.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-14

Annual budget

Sec. 14. The commission shall annually prepare a budget for the operation and capital expenditures of the district.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-15

Loans; warrants; advancements from within district

Sec. 15. (a) To facilitate the carrying out of the preliminary proceedings and provide funds for the payment of expenses prior to the issuance of bonds, the commission may by resolution authorize the making of loans. Such loans shall be evidenced by callable warrants payable out of the proceeds of bonds, when available. The same shall be sold at public sale pursuant to notice given in accordance with IC 5-3-1. Such warrants shall be sold to the bidder offering to purchase said warrants at the lowest actual interest cost to the district, and shall be executed in the name of the district by the president or vice president of the commission.

(b) Any city, town, township, or county, any part of the territory of which is included within said district, shall have authority to advance funds to the district upon being authorized so to do by its fiscal body. Such advancements may be made without appropriation, and warrants evidencing the same shall be issued by the district, bearing such rate of interest as shall be provided for in the resolution or other action authorizing the making of such advancements.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-16

Bonds

Sec. 16. (a) For the purpose of procuring funds to pay the cost of acquisition of property or the cost of construction or installation of an automated transit system, or both, and in anticipation of the receipt of revenues under sections 17 and 18 of this chapter, the commission may by resolution direct that bonds be issued in the name of the district. The amount of such bonds shall not exceed:

- (1) the total cost of property to be acquired and the total amount of damages to be awarded on account of property injuriously affected but not acquired;
- (2) the price of the automated transit system;
- (3) an amount sufficient to pay the cost of supervision and inspection during the period of construction;
- (4) all general, administrative, legal, engineering and incidental expense not otherwise provided for and incurred on account of or in connection with the establishment of the district, the administration of its affairs, the acquisition of property, and the construction of the automated transit system; and
- (5) the expenses to be incurred in connection with the issuance

and sale of bonds.

Such bond issue shall also include an amount sufficient to pay any outstanding warrants issued for the purpose of obtaining funds with which to meet expenses prior to the issuance of bonds. Such bonds shall not, in any respect, be a corporate obligation or indebtedness of the city, the territory of which shall be included in whole or in part in said district, but shall be and constitute an indebtedness of the district, and shall be payable solely out of the funds of said district. The bonds shall recite such terms upon their face, together with the purpose for which they are issued.

(b) In the event the commission shall find it necessary to replace, enlarge or extend any part of the works, or construct additional works in conjunction with or separate and apart from the original works, in order to protect the district properly, and that the cost thereof will be in excess of the amount then available out of current maintenance and repair funds, the commission may issue bonds under the provisions of this section for that purpose.

(c) In the event the district shall be unable to pay any bonds or the interest thereon at the times fixed therefor, by reason of insufficiency of funds or other causes, refunding bonds may be issued and sold pursuant to the provisions of this section to obtain money for that purpose, and such refunding bonds shall be payable within such period, not exceeding ten (10) years, as the commission shall determine.

(d) All bonds issued hereunder, together with the interest thereon, shall be exempt from taxation. No suit to question the validity of any of the bonds issued under this chapter, or to prevent their issuance, shall be instituted after the time fixed in the bond sale notice for the receiving of bids thereon, and all of said bonds from and after said time shall be incontestable for any cause whatsoever.

(e) All proceeds from the sale of such bonds shall be kept by the county treasurer as a separate and specific fund designated as the "_____ Automated Transit District Construction Fund." Out of said fund there shall be paid the cost of the automated transit system. No part of the same shall be used for any other purpose, and any surplus of funds remaining out of the proceeds of said bonds after all of said construction costs are paid shall become available for use by the board for expenses of maintaining the automated transit system.
As added by Acts 1982, P.L. 77, SEC. 1.

IC 8-9.5-7-17

Assessment of benefits and damages

Sec. 17. (a) This section provides for the assessment of benefits and damages to property within the automated transit district. For the purpose of providing all or part of the cost of payment of principal and interest on bonded indebtedness, and expenses of planning, construction, operation, maintenance, and repair of the automated transit system and related parking facilities and services after the completion of the same, including as a part of such cost the general expenses of the commission, the commission may make an annual

assessment of benefits and damages. The assessment shall be against the site value of the lands only.

(b) The commission shall annually prepare a schedule which describes each tract of land in the district that it determines to be benefited by the automated transit system, and states the percentage of the total benefit that is received by each tract of land. In order to prepare this schedule, the commission shall appoint three (3) persons, who are licensed real estate brokers, as appraisers to make an examination of the property within the improvement district. Upon request from the appraisers, the commission may retain or employ qualified personnel to render any necessary technical or consulting assistance, and may supply the appraisers with any information available or obtainable which will assist in making the assessment. Upon such examination, such appraisers shall make an assessment of all special benefits and damages, if any, which will accrue from the construction and operation of the automated transit system, as to each parcel of real estate. All property within the district (or owned or operated by the district), except common green areas, shall be conclusively presumed to be benefited by the existence of the district to the extent determined under this section as its assessed benefit. A copy of the roll of all owners of real estate, signed by all three (3) appraisers, showing the assessment of benefits and damages, if any, shall be filed by the appraisers with the commission not less than thirty (30) days after their appointment, unless the commission shall extend the time.

(c) Promptly after the filing of an assessment, the commission shall cause a notice to be mailed, by United States mail, first class postage prepaid, to each owner of real estate to be assessed. The notices shall be deposited in the mail twenty-one (21) days before the hearing date, shall set forth the amount of the proposed assessment, shall state that the proposed assessments on each parcel of real estate in the district are on file and can be seen in the office of the commission, and shall set forth the date when the commission will, at its office, receive written remonstrances against the assessment on the parcel and hear all owners of real estate assessed who have filed written remonstrances prior to the date fixed for the hearing. It shall be sufficient if the notices to the owners are addressed as the names and addresses appear upon the tax duplicates in the records of the county auditor.

(d) At the time so fixed in such notice, the commission shall hear all owners of real estate assessed who have filed written remonstrances prior to the date of the hearing. The hearing may be continued from time to time as long as may be necessary to hear such owners.

(e) The commission shall complete such assessment roll by rendering its decision by increasing, or decreasing, or by confirming each assessment by setting opposite each name, parcel and appraisers' assessment, the amount of the assessment as determined by the commission. If the total of the assessments exceeds the amount needed, the commission shall further make pro rata reduction

in each assessment. The signing of such roll by a majority of the commission members, and the delivery thereof to the fiscal officer of the city shall constitute a final and conclusive determination of the benefits or damages, if any, assessed. However, any owner who had previously filed a written remonstrance as provided in this section with the board or any owner whose assessment was increased above the amount fixed by the appraisers, whether he filed such a written remonstrance or not, may appeal. Such appeal shall be taken as provided in IC 34-13-6, and shall proceed to trial, hearing, and final judgment in the manner and with the effect as provided in IC 34-13-6 as to all parties.

(f) If the final determination of the commission results in the total funds being inadequate to cover the cost of the improvement, the deficiency may be supplied by other sources as provided in this chapter.

(g) Each assessment shall be a lien on the real estate assessed, second only to taxes levied on such property.

(h) The commission shall annually transmit to the county auditor the schedule of assessment of benefits. The county auditor shall enter the assessment of benefits on the tax duplicates, and the county treasurer shall collect and enforce the amount of the assessed benefit in the same manner as property taxes are entered, collected, and enforced.

(i) The county treasurer charged with the duty of collecting such taxes shall, between the first and tenth days of each month, notify the commission of the amount of such special taxes collected during the preceding month, and upon the date of notification above referred to such county treasurer shall credit the amount so collected to a fund of such district to be designated as the "Automated Transit District Fund", and such fund shall be used and expended for no other purpose than as stated in this section. The commission shall have full, complete, and exclusive authority to expend for and on behalf of the district all sums of money thus realized. The commission may, by resolution, authorize and make temporary loans in anticipation of the collection of the special benefit taxes actually levied and in the course of collection under this section, which loans shall mature and be paid within the year in which made, and shall bear interest payable at the maturity of the loan. Such temporary loans shall be evidenced by warrants.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.8; P.L.1-1998, SEC.89.

IC 8-9.5-7-18

Formula for use of increased property tax revenues

Sec. 18. This section provides a formula for a portion of increased property tax revenues resulting from increases in assessed valuation to be used for the automated transit district. For the first ten (10) complete calendar years after the establishment of an automated transit district, any property taxes levied on the property geographically within the automated transit district, by another

political subdivision, shall be divided each year as follows:

(1) That portion of the taxes which are produced by the rate at which the tax is levied by or for each of the political subdivisions upon the total sum of the assessed value of the taxable property in the district, as that assessed value stands on the date of the establishment of the automated transit district, is allocated to the respective political subdivisions for their usual purposes.

(2) Twenty-five percent (25%) of that portion of the property taxes collected each year in excess of the amount referred to in subdivision (1) is allocated to the respective taxing agencies for their usual purposes in proportion to the tax rate of each taxing agency.

(3) Seventy-five percent (75%) of that portion of the property taxes collected each year in excess of the amount referred to in subdivision (1) is allocated to, and when collected shall be paid into a special fund of the automated transit district to pay the principal and the interest on loans, to repay money advanced to, or to repay indebtedness of the district. When such loans, advances, and indebtedness, if any, and the interest thereon has been paid in full, all money thereafter received from property taxes upon the taxable property in the district shall be paid solely into the funds of the respective political subdivisions.

(4) That portion of the taxes referred to in subdivision (3), and the special fund into which they shall be paid, may be irrevocably pledged by the automated transit district for the payment of the principal and interest on loans or for repayment of advances or indebtedness, of the district.

As added by Acts 1982, P.L.77, SEC.1.